

Message Text

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ACTION SNM-05

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FM AMEMBASSY KINGSTON
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UNCLAS KINGSTON 5964

E.O. 11652: NA
TAGS: SNAR
SUBJECT: NARCOTICS LAWS

REF: (A) KINGSTON 5816, (B) STATE 170187

1. REPORT ON NARCOTICS LAWS IN JAMAICA FOLLOWS. ALTHOUGH SENTENCES SPECIFIED ARE MAXIMUM POSSIBLE SENTENCES, IT IS THE EMBASSY'S EXPERIENCE THAT SENTENCES IMPOSED UPON FIRST CONVICTIONS ARE CONSIDERABLY LESS THAN THE MAXIMUM.

2. POSSESSION.

A. PENALTIES FOR POSSESSION OF -

MARIJUANA (FIRST CONVICTION) - 3 YEARS OR J\$1,000
MARIJUANA (SUBSEQUENT CONVICTIONS) - 5 YEARS AND/OR J\$2,000
OPIATES - 10 YEARS AND/OR J\$20,000
COCAINE - 10 YEARS AND/OR J\$20,000

B. THERE IS NO QUALIFYING AMOUNT FOR POSSESSION - EITHER IN LAW OR LOCAL PRACTICE.

C. LEGAL PENALTIES FOR POSSESSION ARE LESS SEVERE THAN FOR TRAFFICKING. SCS SECTION REPORTS THAT IN RECENT MARIJUANA POSSESSION CASES (AMOUNTS GENERALLY UP TO 1 KILO), FINES ONLY HAVE BEEN IMPOSED.

D. NOTE: J\$1.00 - US\$0.63.

3. TRAFFICKING.

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A. PENALTIES -

EXPORT OR IMPORT OF OPIATES, COCAINE OR MARIJUANA - 10 YEARS
AND/OR J\$20,000
DEALING IN OPIATES, COCAINE - LIFE IMPRISONMENT AND/OR J\$20,000
DEALING IN MARIJUANA - 10 YEARS AND/OR J\$20,000

B. THERE ARE NO MINIMUM PENALTIES, MANDATORY SENTENCING REQUIREMENTS, OR SPECIAL PROVISIONAL LIBERTY PROCEDURES.

C. THE OFFENSE IS STRICTLY CONSTITUTED. PERSONS MUST TRANSFER OR BE IN THE PROCESS OF TRANSFERRING DRUGS TO A RECIPIENT IN ORDER FOR A TRAFFICKING CHARGE TO RESULT. MONETARY PAYMENT, HOWEVER, NEED NOT OCCUR. THERE IS NO QUALIFYING AMOUNT.

D. THERE IS NO SPECIFIC OFFENSE OF CONSPIRACY TO TRAFFIC. THE GENERAL CRIMINAL CONSPIRACY STATUTE, A MISDEMEANOR, APPLIES.

4. CULTIVATION.

A. MAXIMUM PENALTY FOR CULTIVATION OF MARIJUANA IS 10 YEARS AND/OR J\$20,000.

CULTIVATION OF COCA AND OPIUM POPPIES DOES NOT OCCUR IN JAMAICA. SUCH PRODUCTION, HOWEVER, WOULD BE CONSIDERED MANUFACTURED - SEE SECTION 4C.

B. N/A

C. MANUFACTURE, ELABORATION OF OPIATES AND/OR COCAINE IS PUNISHABLE BY LIFE IMPRISONMENT AND/OR J\$20,000 FINE.

5. FINANCIAL.

A. THERE IS NO SPECIFIC OFFENSE RELATING TO FINANCIAL SUPPORT FOR CULTIVATION, ELABORATION, OR TRAFFICKING. GOJ IS CONCERNED WITH THIS ASPECT WHERE IT INVOLVES EXPORT OF CURRENCY. SEE 5B.

B. JAMAICA HAS INSTITUTED STRICT CURRENCY CONTROL LAWS. IT IS A CRIMINAL OFFENSE TO IMPORT OR EXPORT JAMAICAN CURRENCY, EXPORT FOREIGN CURRENCY WITHOUT PERMISSION OF THE BANK OF JAMAICA, OR MAINTAIN A FOREIGN BANK ACCOUNT WITHOUT PERMISSION.

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6. CRIMINAL PROCEDURE.

A. JAMAICAN LAW ALLOWS INVESTIGATIVE DETENTION OF SUSPECTS FOR A "REASONABLE" PERIOD. IN PRACTICE, THIS CAN RANGE FROM A PERIOD OF A FEW HOURS TO SEVERAL DAYS.

B. PRETRIAL DETENTION PERIOD IS GENERALLY 1-3 DAYS FOR SIMPLE POSSESSION OF MARIJUANA CHARGES TO 1-4 MONTHS FOR FELONY TRAFFICKING CHARGES.

C. TRIAL LENGTHS: 1-2 DAYS FOR TRAFFICKING CHARGES, SHORTER TRIALS FOR POSSESSION.

D. LEGAL AID. A VOLUNTARY LEGAL AID SOCIETY PROVIDES COUNSEL TO INDIGENT DEFENDANTS. IN PRACTICE, SUCH COUNSEL IS PROVIDED ONLY TO FELONY DEFENDANTS IN CIRCUIT COURT. DEFENDANTS IN RESIDENT MAGISTRATE'S COURT MUST USUALLY LOOK TO THEIR OWN RESOURCES.

E. CONDITIONAL LIBERTY. IF A JAMAICAN RESIDENT WILL STAND SURETY FOR A DEFENDANT, A MAGISTRATE WILL CONSIDER RELEASE UNTIL TRIAL.

F. JAMAICAN AUTHORITIES WILL NOT EXPEL MINOR OFFENDERS IN LIEU OF TRIAL. MINOR OFFENDERS MAY NOW, HOWEVER, REMAIN IN JAMAICA AFTER CONVICTION. EXPULSION AFTER CONVICTION WAS THE RULE IN THE PAST.

7. NOTE: THE DANGEROUS DRUG ACT OF 1974 AS AMENDED, ENCOMPASSES ONLY REPEAT ONLY OPIATES, COCAINE, AND MARIJUANA. EMBASSY DEA REPORTS THAT THERE ARE NO PROHIBITIONS AGAINST POSSESSION OF OTHER DRUGS,

INCLUDING AMPHETAMINES, BARBITURATES, PSILOCYBIN, PCP, ETC. ILLICIT
TRAFFIC IN PRESCRIPTION DRUGS MAY SUBJECT THE PARTICIPANTS TO
SMALL PENALTIES UNDER PHARMACY LAWS. GOVERNMENT HAS CONSIDERED
REVISION OF THE LAW TO INCLUDE THE ABOVE-NAMED DRUGS AS WELL AS
OTHER PSYCHOTROPIC SUBSTANCES, BUT NO PROGRESS CAN BE EXPECTED IN
THE NEAR FUTURE.
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